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(1)
(2) PETER PRICE, stating a business address of 575
(3) Madison Avenue, New York, New York having
(4) been duly sworn by the Notary
(5) Public, was examined and testified as
(6) follows:

(7) **EXAMINATION**
(8) **BY MR. BECKNER:**

(9) Q: Good morning, Mr. Price. As you
(10) know, my name is Bruce Beckner and I represent
(11) Time Warner Cable in this proceeding. I have a
(12) few additional questions that the ALJ has given
(13) me the right to ask you and so without further
(14) ado I will proceed with that.

(15) At the beginning of your tenure as
(16) president of Liberty Cable, did you have
(17) occasion to meet with any lawyers from a law
(18) firm of Pepper & Corazzini?

(19) A: I did, yes.

(20) Q: Do you remember the names of the
(21) lawyers whom you met with, sir?

(22) MR. BEGLEITER: Objection, plural,
(23) singular, but go ahead.

(24) A: I met with Tod Parriott and I met
(25) with Bob Corazzini.

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(1) Q: And what was the purpose of those
(2) meetings?

(4) MR. BEGLEITER: We'll advise the
(5) witness not to relate any of the substance
(6) of the conversation.

(7) MR. SPITZER: If there is a generic
(8) purpose you can state without recounting
(9) any advice rendered by the lawyers to
(10) you.

(11) MR. BEGLEITER: Or your request.

(12) MR. SPITZER: Or your specific
(13) request for advice.

(14) A: The purpose of the meetings was to
(15) introduce myself to the firm that had been
(16) representing Liberty in Washington. And to
(17) attend, to ask them to facilitate my attendance
(18) at a meeting there.

(19) Q: All right, did there come a time
(20) when you met with the firm or talked with
(21) lawyers at the firm, any lawyer at the firm for
(22) the purpose of setting up a procedure or
(23) mechanism whereby Liberty employees and the firm
(24) of Pepper & Corazzini would work together in
(25) filing applications for microwave paths in New

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(1)
(2) York City?

(3) A: Yes.

(4) Q: When was that, if you remember?

(5) A: At the beginning of this proceeding,
(6) when I tried to put in place a system that was,
(7) you saw regarding these ABC lists that we talked
(8) about earlier.

(9) Q: And that would have been
(10) approximately in the middle of 1995?

(11) A: That's correct.

(12) Q: Before the middle of 1995 had you
(13) ever requested of any lawyer at the firm of
(14) Pepper & Corazzini, either orally or in a letter
(15) or memorandum that was written, that they work
(16) with Liberty employees to set up an application
(17) procedure involving the Liberty employees and
(18) themselves with respect to the handling of FCC,
(19) OFS applications?

(20) MR. SPITZER: There is an objection
(21) as to form, but the witness can answer the
(22) question.

(23) A: Yes.

(24) Q: When did you do that?

(25) MR. BEGLEITER: Objection. That's

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(1)
(2) vague.

(3) MR. SPITZER: You're going to need
(4) to lay a better foundation given the
(5) complexity and compound nature of the
(6) prior question.

(7) MR. BECKNER: Okay, that's fine.

(8) Q: Can you tell me the specific nature
(9) of the request that you made to Pepper &
(10) Corazzini with respect to establishing a
(11) procedure by which their lawyers and Liberty
(12) personnel work together to file microwave
(13) applications?

(14) MR. SPITZER: By "nature" do you
(15) mean the form the request took, written,
(16) oral?

(17) MR. BECKNER: What he told them.

(18) MR. SPITZER: The substance of what
(19) he told them or the form?

(20) MR. BECKNER: What he asked them to
(21) do.

(22) A: I asked our management to work with
(23) Pepper & Corazzini in setting up a system to
(24) handle the way we apply for microwave licenses.

(25) Q: When you say our management, can you

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[1] *Price*
[2] be specific about who those persons were?
[3] **MR. SPITZER:** If it was more than
[4] one.
[5] **Q:** If it was more than one.
[6] **A:** I believe it was Bruce McKinnon that
[7] I issued those instructions to, and asked him to
[8] work with the Pepper & Corazzini people, but I
[9] can't remember specifically.
[10] **Q:** Did you make that request only
[11] through Mr. McKinnon or did you actually speak
[12] directly with someone at Pepper & Corazzini?
[13] **A:** I never spoke with anyone at Pepper
[14] & Corazzini on this subject.
[15] **Q:** Do you know whether or not
[16] Mr. McKinnon in fact spoke with the people at
[17] Pepper & Corazzini to establish such a procedure
[18] as you had asked him to do?
[19] **A:** I do not know the answer.
[20] **Q:** You don't recall whether he reported
[21] back to you about that or not?
[22] **A:** No, I do not recall.
[23] **Q:** Have you ever met or spoken with
[24] Mr. Howard Barr at Pepper & Corazzini?
[25] **A:** Yes, I have.

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[1] *Price*
[2] **Q:** Do you recall the first time that
[3] you met or spoke with Mr. Barr?
[4] **A:** I believe it was before 1994, as I
[5] recall. I may have talked to him before that,
[6] but I believe it was 1994, in about there.
[7] **Q:** And without disclosing the specifics
[8] of an attorney-client communication, can you
[9] simply tell me what the subject matter of your
[10] conversation was with Mr. Barr?
[11] **A:** I believe the subject was copyright
[12] filings.
[13] **Q:** Have you ever spoken with Mr. Barr
[14] on the subject of microwave applications prior
[15] to approximately middle of 1995?
[16] **A:** No.
[17] **Q:** Going back to the request that you
[18] made of Mr. McKinnon to work with the Pepper &
[19] Corazzini lawyers to establish a procedure for
[20] the filing of applications, do you know whether
[21] or not there was any kind of written memorandum
[22] or letter or other document from anyone at
[23] Liberty Cable to anyone at Pepper & Corazzini
[24] that made that request?
[25] **A:** I do not know the answer to that.

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[1] *Price*
[2] (Mr. Spitzer and the witness
[3] confer.)
[4] **A:** Yes, just a point of clarification.
[5] The memo that I wrote asking staff, I believe
[6] Mr. McKinnon, to set up a procedure with Pepper
[7] & Corazzini, was copied to Pepper & Corazzini,
[8] so in that sense there was a written
[9] instruction, but still just that memo. I don't
[10] recall any other correspondence.
[11] **Q:** Do you know the specific person to
[12] whom it was copied to at Pepper & Corazzini?
[13] **A:** I believe it was Tod Parriott. I'm
[14] not positive, but I believe it was Tod
[15] Parriott.
[16] **Q:** Do you know whether or not in 1994
[17] Mr. Barr was a partner or an associate at Pepper
[18] & Corazzini?
[19] **A:** I have no idea.
[20] **Q:** Do you know in 1994 who the lawyer
[21] was who was in charge of the Liberty Cable
[22] account in Pepper & Corazzini? And if you want
[23] me to explain what I mean by that I will.
[24] **A:** I have no idea. You can explain it
[25] to me but I don't know the inside workings of

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[1] *Price*
[2] the Pepper & Corazzini firm, and who does what
[3] to whom there.
[4] **Q:** Well, let me explain the question so
[5] that your answer is clear. In many cases a law
[6] firm will tell a client that Partner X, usually
[7] it's a partner, is the person the client should
[8] call if they have any questions about the firm's
[9] handling of the client's legal work. That
[10] doesn't necessarily mean that Partner X
[11] is doing the work or doing all the work, but it
[12] simply gives the client a contact person within
[13] the firm, somebody to call, who will know
[14] something about the handling of that client's
[15] account.
[16] So that was the sense in which I was
[17] saying did you know whether or not Mr. Barr or
[18] who was handling the account of Liberty Cable at
[19] Pepper & Corazzini?
[20] **MR. SPITZER:** At what time frame?
[21] **MR. BECKNER:** In 1994.
[22] **A:** When in doubt I always called Bob
[23] Corazzini. His name was on the door and I
[24] figured he would know.
[25] **Q:** Did you ever see any of the Pepper &

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(1) **Price**
(2) Corazzini bills to Liberty Cable for legal
(3) services in 1994?
(4) **A:** I'm sure I did, but I don't remember
(5) any specific bill.
(6) **Q:** Do you remember the name of the
(7) lawyer, if any, who sent the bill to Liberty?
(8) **A:** No, I do not.
(9) **DIR Q:** Did you have an expectation, in 1994
(10) and the first half of 1995, before these new
(11) procedures you talked about before were set up,
(12) that lawyers at the law firm of Pepper &
(13) Corazzini would be responsible for, at least in
(14) part for seeing that Liberty Cable did not
(15) activate the microwave path before a license or
(16) other authority from the FCC had been attained
(17) for that path?
(18) **MR. SPITZER:** There are several
(19) objections to that question. First I
(20) think it's been, the subject matter is
(21) beyond the scope of what the purpose of
(22) this morning's limited deposition is for.
(23) And second, what Mr. Price's expectation
(24) was with respect to the actions of his
(25) attorney calls for an attorney-client

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(1) **Price**
(2) communication. Calls for the revelation
(3) of attorney-client communications and I'm
(4) instructing him not to answer the
(5) question.
(6) **MR. BECKNER:** If that is an
(7) attorney-client, and I'm not saying that
(8) was, the privilege was waived by
(9) Mr. Milstein since he testified about his
(10) expectations.
(11) **MR. SPITZER:** No, he testified about
(12) his state of mind as to who he believed
(13) was at fault.
(14) **MR. BECKNER:** Okay, you have your
(15) instruction on the record.
(16) **Q:** In the process of reviewing and
(17) auditing the events that caused Liberty Cable to
(18) activate microwave paths before it had FCC
(19) licenses to operate those paths, did you come to
(20) any conclusion about whether or not
(21) responsibility for that unlicensed activation
(22) fell at least in part on the shoulders of the
(23) Pepper & Corazzini law firm?
(24) **THE SPITZER:** Objection as to form.
(25) I don't think there is any testimony that

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(1) **Price**
(2) Mr. Price conducted such a review and an
(3) audit.
(4) **MR. BECKNER:** If he didn't conduct
(5) one he can certainly say so. Are you
(6) instructing him not to answer? This is
(7) going to take a long time. We're going to
(8) keep going back and forth to the judge
(9) until I get answers to the questions. Do
(10) you have your instruction, yes or no?
(11) **MR. SPITZER:** Mr. Beckner, I'm not
(12) under oath and I'm not going to respond to
(13) your demands that I instruct the witness
(14) immediately. I'll talk with my counsel
(15) and decide what we're doing.
(16) **MR. BECKNER:** Fine.
(17) (Pause in the proceedings.)
(18) **MR. SPITZER:** You can answer that
(19) question.
(20) **A:** Can you repeat the question,
(21) please.
(22) **MR. BECKNER:** Read it back.
(23) (Pause in the proceedings.)
(24) **MR. SPITZER:** The witness can answer
(25) the question, but there is a relevance

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(1) **Price**
(2) issue, but we'll let him answer the
(3) question.
(4) (The record was read.)
(5) **MR. SPITZER:** Again, I'm going to
(6) state so the record is clear there's been
(7) no testimony Mr. Price conducted such a
(8) review and audit and this is beyond what
(9) the scope of what the judge authorized
(10) today's deposition to be for which was
(11) exclusively to see if there is a predicate
(12) for Mr. Barr's deposition to take place.
(13) Having said that I will let the witness
(14) answer that question.
(15) **A:** I believe I said the other day, when
(16) you asked me about who was responsible for the
(17) problems we had, I said that several of us
(18) involved in the process were all responsible to
(19) different degrees for the foul-up that occurred
(20) there.
(21) Tony Ontiveros as general manager of
(22) operations, Behrooz as engineer, myself as
(23) supervisor of what was going on in the company,
(24) ultimate responsibility for it, Bruce McKinnon
(25) at a point, and I never conducted any

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[1] **Price**
[2] investigation myself. But when you asked me who
[3] I thought was responsible at the end of the day,
[4] it was all those people and I had instructed
[5] them to work with the consultants and lawyers to
[6] set up a system or somehow the lawyer or the
[7] consultants also involved in the foul-up. Yes,
[8] to the degree our management didn't coordinate
[9] with them. How or what or why I don't know. I
[10] know it was a foul-up because no one followed
[11] through. Or apparently they didn't follow up
[12] correctly.
[13] **Q:** But I take it from your answer that
[14] as to the specifics of precisely who, to use
[15] your term, didn't follow through or didn't
[16] follow through correctly, that you don't know
[17] whether or not people who didn't follow through
[18] included people at Pepper & Corazzini?
[19] **A:** I didn't conduct any detailed
[20] investigation of the degree that would give me
[21] that information.
[22] **Q:** I understand -
[23] **A:** I can't answer your question.
[24] **Q:** That's fine.
[25] **A:** I tried, but I just can't.

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[1] **Price**
[2] **Q:** During the calendar year 1994 did
[3] you have occasion to call anyone at Pepper &
[4] Corazzini about the general handling of the
[5] Liberty account by Pepper & Corazzini?
[6] **A:** Not that I recall. I may have, but
[7] I don't know.
[8] **Q:** And the same question with respect
[9] to 1995, in the time before Time Warner raised
[10] the allegation that Liberty was operating
[11] microwave systems without a FCC license?
[12] **A:** No, I don't recall that I did.
[13] **MR. BECKNER:** It's almost 10:00 and
[14] I want to give Mr. Holt his full two hours
[15] that he's entitled to.
[16] **MR. SPITZER:** Do you have any more
[17] questions on this matter?
[18] **MR. BECKNER:** Not at this time.
[19] **MR. HOLT:** Does that conclude your
[20] questioning, your deposition?
[21] **MR. BECKNER:** That concludes my half
[22] hour. You can put that in quotes.
[23] **MR. HOLT:** I would like to begin the
[24] questioning of Mr. Price.
[25] **MR. SPITZER:** Chris, can you wait

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[1] **Price**
[2] one moment? I'm talking with Bob, and my
[3] Swiss Army Watch here, which I'm told is
[4] very precise, says you have one minute
[5] until your 10:00 witching hour begins.
[6] **MR. HOLT:** I'll give you a minute.
[7] (Pause in the proceedings.)
[8] (Mr. Beckner and Mr. Spitzer leave
[9] the deposition room.)
[10] (Price Exhibit A, Bartholdi Cable
[11] Company, Inc.'s Statement of Erratum for
[12] the Record, was marked for
[13] identification.)
[14] **MR. HOLT:** For purposes of
[15] convenience, during the deposition I would
[16] like to refer to this as Price 1, unless
[17] there's a specific need to throw Holt in
[18] there.
[19] **MR. BEGLEITER:** That will get
[20] confusing. Why don't we do it, instead of
[21] Price Holt which is a little awkward,
[22] Price A is fine. Let's make it Price A
[23] instead.
[24] **EXAMINATION**
[25] **BY MR. HOLT:**

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[1] **Price**
[2] **Q:** Mr. Price, do you have the document
[3] before you now?
[4] **A:** I do.
[5] **Q:** Could you turn to page 4 of the
[6] document?
[7] **A:** It says Exhibit A.
[8] **Q:** Sorry, there is a signature page.
[9] **A:** Yes.
[10] **Q:** Do you recognize the signature on
[11] the top right-hand column as being that of
[12] yourself?
[13] **A:** Let see, I have Bob Begleiter
[14] there. There are -
[15] **MR. BEGLEITER:** What's the document
[16] called, Chris?
[17] **MR. HOLT:** The document is a private
[18] cable agreement for co-operatives and
[19] condominiums.
[20] **MR. BEGLEITER:** Wrong document.
[21] **MR. HOLT:** I'm sorry, I should have
[22] described it.
[23] **A:** It's what's marked 2 here. It's
[24] Price B what you're talking about. Price A you
[25] were referring to.

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[1] *Price*
[2] **Q:** Let's begin with that. Let's begin
[3] with Price A. The Bartholdi Cable Company,
[4] Inc.'s Statement of Erratum for the Record.
[5] **Mr. Price,** I would like to direct
[6] your attention to the document that's attached
[7] to Price A as Exhibit A, which is a letter on
[8] the letterhead of I believe it's Fischbein.
[9] **MR. BEGLEITER:** Badillo Wagner &
[10] Itzler.
[11] **MR. HOLT:** Thank you.
[12] **Q:** Mr. Price, have you seen this letter
[13] before today?
[14] **A:** I don't recall it if I have. I'm
[15] sorry, I don't recall it.
[16] **Q:** Can you take a moment to review the
[17] letter? I apologize for the quality but that's
[18] the way I received it from counsel.
[19] **A:** (Perusing.)
[20] **Q:** Have you completed your review?
[21] **A:** Yes.
[22] **Q:** This is a letter on the letterhead
[23] of the law firm. Is this a law firm that worked
[24] for Liberty or was it retained by Liberty on or
[25] about July 6, 1994?

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[1] *Price*
[2] **A:** I don't know if they were retained
[3] then. I didn't retain them.
[4] **Q:** Were they doing legal work for
[5] Liberty about that time?
[6] **A:** What date?
[7] **Q:** July 6, 1994.
[8] **A:** In 1994 I can't answer that
[9] question. I don't know if they were doing legal
[10] work then.
[11] **Q:** Well, is it your testimony that you
[12] were not aware that this letter was sent on or
[13] about July 6, 1994?
[14] **A:** If it was I don't recall it. I mean
[15] I've read it. Now I understand the context of
[16] it, but I don't recall having read it at the
[17] time.
[18] **Q:** Do you recall discussing the
[19] contents with anyone around the time that it was
[20] dated, July 6, 1994?
[21] **A:** No.
[22] **Q:** Now this is a letter that was sent
[23] to a regulatory official in New York concerning
[24] whether or not Liberty would be required to
[25] obtain a franchise to offer non-common systems,

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[1] *Price*
[2] correct?
[3] **MR. BEGLEITER:** Objection to the
[4] form. Answer if you can.
[5] **A:** I gather that's what it says. I
[6] mean I just read it. I gather that's what it
[7] says or that was the intent. But I didn't ask
[8] this lawyer to write this letter and I wasn't, I
[9] don't recall it.
[10] **Q:** So you're saying that this letter
[11] was sent without your knowledge?
[12] **A:** I may have seen it but I certainly
[13] don't recall it. I certainly didn't ask the
[14] letter to be sent, no. I'm trying to be
[15] helpful.
[16] **Q:** I understand. Let's proceed to
[17] Exhibit B, to Exhibit B within Price Exhibit A.
[18] **A:** (Perusing.) Yes, I'm looking at it.
[19] **Q:** If you turn to the second page,
[20] there is a letter on the letterhead of the City
[21] of New York.
[22] **A:** Right.
[23] **Q:** To Mr. Dunleavy. Have you seen this
[24] letter before?
[25] **A:** Yes, this letter I do recall seeing.

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[1] *Price*
[2] **Q:** Approximately when did you see it?
[3] **A:** I presume around the time or shortly
[4] thereafter that it was received.
[5] **Q:** How did you come to see the letter?
[6] **A:** I don't recall. It must have been
[7] in a meeting.
[8] **Q:** What leads you to believe it must
[9] have been in a meeting?
[10] **A:** Otherwise I'd be clairvoyant. I
[11] mean I am not copied. I'm not copied on the
[12] letter. It wasn't sent to me. So I presume
[13] somebody showed it to me at a meeting.
[14] **Q:** Do you recall having a meeting on or
[15] about July 21, 1994 to discuss the contents of
[16] this letter with anyone?
[17] **A:** No, I do not.
[18] **Q:** Do you recall discussing this letter
[19] with anyone at any time at all?
[20] **A:** No, I do not. This transaction
[21] you're talking about with this exchange of
[22] letters, I wasn't directly involved in, so I saw
[23] it after the fact, as I recall, but I wasn't
[24] involved in this transaction.
[25] **Q:** And what impact if any did Liberty's

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Page 25

[1] **Price**
[2] receipt of this letter have on Liberty's
[3] operations of non-common systems?
[4] **A:** I don't recall what this particular
[5] letter would have caused us to do or not to do.
[6] I think we were conducting business as usual.
[7] **Q:** So?
[8] **A:** I don't recall that this letter
[9] caused me to change the way I did business.
[10] **Q:** Let's turn to the document that's
[11] been marked as Price B, the Riva Points
[12] contract.
[13] (Price Exhibit B, Riva Points
[14] contract, was marked for identification.)
[15] **Q:** Do you have that document before
[16] you, Mr. Price?
[17] **A:** I do.
[18] **Q:** If you can turn to page 4, please.
[19] **MR. BEGLEITER:** Before we do that I
[20] would like to read the Bates numbers into
[21] the record.
[22] **MR. HOLT:** The document bearing
[23] Bates numbers FCC/CP 001532, preceding
[24] through FCC/CP 001537.
[25] **A:** Yes, sir.

[1] **Price**
[2] **Q:** What was your understanding, if any,
[3] with regard to the use of the term "operate" as
[4] used in that paragraph?
[5] **A:** To provide the property with video
[6] signals of the description they requested.
[7] **Q:** Another word for commencing service?
[8] **A:** I think that's legitimate. Not
[9] necessarily commencing, but ongoing service.
[10] **Q:** Providing service as opposed to
[11] installation?
[12] **A:** Yes. Well, one word says "install,"
[13] the next word says "operate." I think they are
[14] different words.
[15] **Q:** Now, proceeding with paragraph 4,
[16] that paragraph indicates that, if you will read
[17] the first sentence, that Liberty is agreeing to
[18] install the system within 120 days from the date
[19] of the contract, correct?
[20] **A:** Correct.
[21] **Q:** Was it your understanding that that
[22] provision obligated Liberty to commence service
[23] within 120 days?
[24] **A:** That's normally the intent, yes.
[25] **Q:** Was it your understanding at the

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[1] **Price**
[2] **Q:** Turn to the page bearing the Bates
[3] stamp FCC/CP 001535.
[4] **A:** Yes.
[5] **Q:** Do you recognize the signature
[6] appearing on the top right-hand corner of that
[7] page as that of yourself?
[8] **A:** I do.
[9] **Q:** Turn back to the first page, please,
[10] paragraph 3 of the contract.
[11] **A:** Yes.
[12] **Q:** First line indicates that the
[13] contract grant, the owner grants the operator
[14] the right to install, operate and maintain
[15] equipment at its property. What was your
[16] understanding with regard to the use of the term
[17] "install" as used in this contract at the time
[18] you signed it?
[19] **A:** I presume it was to put what we
[20] normally did, our coaxial cable around the
[21] property to serve whatever the owner wanted to
[22] be served with our signal.
[23] **Q:** So the installation of equipment,
[24] correct?
[25] **A:** Yes.

[1] **Price**
[2] time you signed this contract that Liberty was
[3] legally bound to commence service within 120
[4] days?
[5] **A:** Yes, that's what it says. It's a
[6] contract and I signed it and it says we're
[7] legally bound to provide service within 120
[8] days, yes.
[9] **Q:** I'm asking you to read the sentence
[10] carefully because it indicates that you're
[11] obligated to install the system within 120 days?
[12] **A:** Well, regardless of what it says,
[13] the practice with every one of these contracts
[14] is the expectation of the buyers that we're
[15] going to install the system and activate it so
[16] they can have service within 120 days.
[17] **Q:** But that's not provided for
[18] specifically in this contract, is it?
[19] **A:** I can't tell you. I didn't write
[20] this contract, and I've never had a dispute
[21] regarding this contract in that regard, so if
[22] there is some question about that I don't know
[23] it.
[24] **Q:** Turning to paragraph 7 of the
[25] contract.

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Price

- (1)
(2) **A:** Got it.
(3) **Q:** Proceed about eight lines down.
(4) **A:** Right.
(5) **Q:** There's a reference to subscribers.
(6) Can you please explain your understanding as to
(7) what that term meant in this contract at the
(8) time you signed the contract?
(9) **A:** Well, this contract is almost
(10) identical to every other contract we signed.
(11) It's a contract, a boilerplate contract prepared
(12) by counsel. It's the same contract for every
(13) property. And it refers to who is buying the
(14) service at that property. That's a subscriber,
(15) an individual subscriber, who is the purchaser
(16) of the service we're providing.
(17) **Q:** I would like to proceed to the next
(18) document, marked as Price Exhibit C. And it is
(19) a four-page document, titled "Private Cable
(20) Agreement," begins with the Bates stamp FCC/CP
(21) 014804 and proceeds through FCC/CP 014808.
(22) (Price Exhibit C, four-page document
(23) entitled "Private Cable Agreement," was
(24) marked for identification.)
(25) **A:** Yes.

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Price

- (1)
(2) **Q:** Do you have that document before
(3) you, Mr. Price?
(4) **A:** Yes, I do, Chris.
(5) **Q:** Do you recognize this document as
(6) being a private cable agreement between Liberty
(7) and a company that owns the Lincoln Harbor Yard
(8) Club in Weehawken, New Jersey?
(9) **A:** That's what it says.
(10) **Q:** Can you turn to page 6 of the
(11) agreement, bearing Bates stamp FCC/CP 014807?
(12) **A:** Yes, I have it.
(13) **Q:** Is the signature appearing on that
(14) page on the right-hand side that of yourself?
(15) **A:** Yes, it is.
(16) **Q:** I would like to focus your attention
(17) on paragraph 6 of the document. Take a brief
(18) moment to review that paragraph.
(19) **A:** (Perusing.) Yes, I see it.
(20) **Q:** Now the paragraph provides that
(21) Liberty will commence wiring the facility no
(22) later than March 1st, 1995 following the
(23) execution of the agreement. It also indicates
(24) that you will use your best efforts to complete
(25) construction in four weeks thereafter. Was it

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Price

- (1)
(2) your understanding this provision obligated
(3) Liberty to complete construction within four
(4) weeks?
(5) **A:** That's what it says.
(6) **Q:** Was there anything in this contract,
(7) in this provision, first, that obligated Liberty
(8) to commence service within four weeks?
(9) **A:** That's not what it says.
(10) **Q:** Take a moment to review the contract
(11) and tell me if there was anything that obligated
(12) Liberty to commence service within 120 days of
(13) the date of the contract?
(14) **A:** Well, it's a four-page legal
(15) agreement. If there is something like that
(16) could you help me and point me toward it so I
(17) don't have to read all this contract language
(18) and sort it out.
(19) **Q:** I would be happy to represent to you
(20) I found nothing that obligates Liberty to
(21) commence service within 120 days.
(22) **A:** I take your word for it.
(23) **Q:** And you agree that nothing in
(24) paragraph 6 obligates Liberty to commence
(25) service within 120 days of the date of the

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Price

- (1)
(2) contract?
(3) **A:** Not that I can see.
(4) **Q:** Now, do you have any knowledge or
(5) understanding as to where the Lincoln Harbor
(6) Yard Club is located in relation to Riva Point?
(7) **A:** Not a clue. Never been there.
(8) **Q:** No one's apprised you of the fact
(9) Riva Point is located next door?
(10) **MR. BEGLEITER:** Objection. Answer
(11) if you can.
(12) **A:** No, I have no idea. I wasn't
(13) involved in this transaction at all and I've
(14) never been there.
(15) **Q:** Do you have any knowledge or
(16) understanding as to when service was activated
(17) at the Lincoln Harbor Yacht Club?
(18) **A:** No, I do not.
(19) **Q:** No one ever gave you any report or
(20) other communication which indicated that service
(21) commenced at Lincoln Harbor Yacht Club?
(22) **A:** No, sir, not unless it was part of
(23) that ABC chart reconciliation that I did a year
(24) ago, but other than that, if it's listed on
(25) there I guess I became aware at a point. At

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[1] *Price*
[2] this time was I aware of this transaction or
[3] when the details of the contract or when service
[4] started or didn't start? No, I do not know. It
[5] wasn't part of the transaction.
[6] Q: Assuming that Liberty commenced
[7] wiring the Lincoln Harbor Yacht Club on or about
[8] March 1st, pursuant to paragraph 6 of the
[9] contract. Do you have any knowledge or
[10] understanding as to whether Liberty ever
[11] contacted any officials, in between the date of
[12] the contract and the construction on March 1st
[13] commenced, to advise New Jersey officials of
[14] their plans to establish a hard wiring
[15] interconnection between Lincoln Harbor and Riva
[16] Point?
[17] A: Let me state again I was not
[18] involved in this transaction. I wasn't on the
[19] property. I didn't know when service was to
[20] begin. So, therefore, it follows I have no
[21] knowledge of any contact or lack of contact with
[22] anyone in New Jersey, including government
[23] officials or anyone else.
[24] Q: Is it your testimony that if contact
[25] had been made you wouldn't have been made aware

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[1] *Price*
[2] of it?
[3] A: Repeat the question.
[4] Q: Is it your testimony that if contact
[5] had been made with New Jersey officials,
[6] regarding Liberty's plans to construct the
[7] Lincoln Harbor facility, that you wouldn't have
[8] been made aware of it?
[9] MR. BEGLEITER: Objection.
[10] Answer if you can.
[11] A: I was not made aware of any contact
[12] with any officials in New Jersey. The would
[13] have and the could have, I don't understand
[14] that part. But I did not have any contact with
[15] New Jersey officials, and no one informed me of
[16] any such contact.
[17] Q: Mr. Price, do you recall a decision
[18] issued by Judge Preska of the United States
[19] District Court for the Southern District of
[20] New York in March of 1995, that denied Liberty's
[21] motion for preliminary injunction?
[22] A: I'm aware of that proceeding. There
[23] are a good number of motions and rulings, and
[24] yes, I recall the proceeding, and you'd have to
[25] describe in detail exactly what piece of it

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[1] *Price*
[2] you're after here.
[3] Q: I'm seeking to know whether you
[4] recall reviewing the decision rendered by Judge
[5] Preska on or about March 14, 1995?
[6] A: No, I did not review the decision.
[7] Counsel simply told me that whatever the result
[8] was was the result. I didn't read legal
[9] papers.
[10] Q: Did you discuss the decision with
[11] counsel?
[12] A: Yes.
[13] Q: And without getting into privileged
[14] communications, can you describe for me
[15] generally what counsel advised you regarding the
[16] decision?
[17] A: No, I don't recall.
[18] Q: You don't recall anything that you
[19] discussed with counsel regarding this decision?
[20] A: You'd have to refresh my
[21] recollection of what the ruling was and then
[22] maybe I can tell you what I recall the
[23] conversation surrounding it to be.
[24] Q: Well, the ruling was that you're
[25] aware of the fact Liberty started preliminary

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[1] *Price*
[2] injunction to enjoin New York State officials
[3] from enforcing the various provisions of the
[4] Cable Act, correct?
[5] A: Right, okay, that helps.
[6] Q: And one of those provisions was a
[7] provision that could have required Liberty to
[8] obtain a cable franchise in order to operate a
[9] non-common system in New York; isn't that right?
[10] A: Right, okay, I'm with you so far. I
[11] recall that.
[12] Q: And the Judge's decision denied
[13] Liberty's motion for preliminary injunction,
[14] didn't it?
[15] A: Yes, I recall it did. I thank you
[16] for bringing me along. That was helpful.
[17] Q: In issuing the decision Judge Preska
[18] rejected Liberty's contention that its
[19] non-common system did not require a cable
[20] franchise in New York City; isn't that right?
[21] MR. BEGLEITER: Objection, that's a
[22] mischaracterization.
[23] MR. HOLT: Maybe the witness can
[24] relate to me what his understanding is
[25] with respect to Judge Preska's decision

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[1] *Price*
[2] concerning Liberty's operation of
[3] non-common cable systems.
[4] **MR. BEGLEITER:** Do you have a
[5] question?
[6] **MR. HOLT:** That is a question.
[7] **A:** Repeat the question, please.
[8] **Q:** Can you relate to me your
[9] understanding as to the substance of Judge
[10] Preska's decision regarding Liberty's operation
[11] of non-common cable systems?
[12] **MR. BEGLEITER:** I'm going to -
[13] **A:** It's too broad for me. I remember
[14] this had a lot to do with rightness and whether
[15] the Judge was willing to get to the issues, and
[16] it was amazingly complex and you really have to
[17] give it to me by pieces. I'm not a practicing
[18] lawyer. I didn't prepare all the briefs and all
[19] the motions back and forth. You just have to
[20] clue me as to what you're after and I'll give
[21] you a crisp yes or no. I know you're after
[22] something.
[23] **Q:** What I'm seeking to know is what
[24] your understanding was with regard to Judge
[25] Preska's decision concerning Liberty's operation

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[1] *Price*
[2] of non-common systems. Let me focus more
[3] specifically. Whether or not Liberty would be
[4] required to obtain a cable franchise in order to
[5] operate non-common systems?
[6] **A:** As I recall, it was simply denied,
[7] the injunction. I don't recall what the
[8] implications of that were. I don't recall the
[9] judge saying go out and get a franchise, if
[10] that's what you're after.
[11] **Q:** Do you recall discussing the
[12] implications with anyone at Liberty following
[13] Judge Preska's decision?
[14] **MR. BEGLEITER:** Aside from counsel?
[15] **MR. HOLT:** Anyone at Liberty.
[16] **MR. BEGLEITER:** Aside from counsel.
[17] I will direct you not to answer with
[18] counsel.
[19] **A:** I didn't discuss this with
[20] management. I only discussed it with the
[21] lawyers.
[22] **Q:** Do you recall discussing the
[23] implications of the decision with Liberty's
[24] counsel?
[25] **A:** Yes.

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[1] *Price*
[2] **DIR Q:** Without getting into privileged
[3] communications, can you tell me generally what
[4] you discussed?
[5] **MR. BEGLEITER:** I'm going to
[6] object. That does tell you generally,
[7] we've already determined it's Preska's
[8] decision. More than that is specific and
[9] I'm going to object and direct him not to
[10] answer.
[11] **A:** I'm quite willing to answer direct
[12] questions about things I know or we can talk
[13] about. But speculation about talking to lawyers
[14] and what those conversations were, that's not
[15] going to go anywhere.
[16] **DIR Q:** I'm not asking you to speculate.
[17] I'm asking you to provide me with your best
[18] recollection as to what you discussed with your
[19] attorneys regarding the impact of this decision
[20] in terms of Liberty's operation of non-common
[21] systems.
[22] **MR. BEGLEITER:** Objection, direct
[23] him not to answer. Next question,
[24] please.
[25] **Q:** Can you tell me whether you

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[1] *Price*
[2] considered Judge Preska's decision to be a
[3] matter of any significance in terms of Liberty's
[4] operation of non-common systems?
[5] **A:** Yes.
[6] **Q:** And what significance, what was that
[7] significance?
[8] **A:** The significance was that she
[9] wouldn't stop the State Cable Commission from
[10] making demands upon us.
[11] **Q:** And what were those demands?
[12] **A:** The State Cable Commission, as I
[13] recall, said we would have to have a franchise.
[14] **Q:** And what if any effect did Judge
[15] Preska's decision have on your operation of
[16] non-common systems?
[17] **A:** When, as I recall, there was, you
[18] have to help me on this, there was a lot of
[19] stuff going on. If you're saying was it, I
[20] presume that was because we couldn't get an
[21] injunction from, regarding the behavior of the
[22] State Cable Commission, that they were therefore
[23] empowered to issue some kind of edict regarding
[24] our operations. But you'll have to refresh me
[25] on that. A lot of things were going on at that

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[1] **Price**
[2] time and a lot of motions were being made about
[3] free speech and due process and everything else,
[4] so it was a complex proceeding and I don't have
[5] the 400 pages of paper in front of me.
[6] (Mr. Beckner and Mr. Spitzer
[7] re-enter the deposition room.)
[8] **Q:** I'm not asking you to relate to me
[9] the contents of the decision. I'm asking you
[10] what impact if any the decision had on your
[11] operation of non-common systems?
[12] **A:** As I recall, when there was an order
[13] issued that we not hook up any more systems, we
[14] didn't hook up any more non-common systems, as I
[15] recall.
[16] **Q:** So is it your testimony that Judge
[17] Preska's decision didn't affect your operation
[18] of non-common systems?
[19] **MR. BEGLEITER:** I'm going to object
[20] to the question. It's vague, it's
[21] ambiguous.
[22] **A:** I don't know what you mean by
[23] effect.
[24] **Q:** Mr. Price, as a result of Judge
[25] Preska's decision did you modify the manner in

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[1] **Price**
[2] which you operate non-common systems?
[3] **A:** What was the - Judge Preska, you're
[4] going to have to help me on this because there
[5] was a whole bunch of paper there. If you're
[6] saying that Judge Preska's decision meant the
[7] State Cable Commission was empowered to stop us
[8] from hooking up non-common systems on private
[9] property, and that was an order of competent
[10] authority, then I believe we stopped when that
[11] order went into effect.
[12] **Q:** I'm not asking you -
[13] **A:** That's what you mean. I don't know
[14] what in the hell you mean, actually.
[15] **Q:** Well -
[16] **A:** I'm leading you. You're not leading
[17] me.
[18] **Q:** I'm asking you whether the release
[19] of this decision caused you to change the manner
[20] in which you operate in any way.
[21] **MR. BEGLEITER:** Asked and answered.
[22] Asked and answered, Chris. If you want me
[23] to explain what his answer was, I'll
[24] explain it. I don't think you want that.
[25] But I think it was asked and answered.

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[1] **Price**
[2] **Q:** As a result of Judge Preska's
[3] decision, did you stop construction of the
[4] facilities that you were establishing in Lincoln
[5] Harbor?
[6] **A:** I don't have a clue.
[7] **Q:** You never gave an order to anyone to
[8] stop construction of those facilities as a
[9] result of Judge Preska's decision, did you?
[10] **A:** I wasn't involved in the Lincoln
[11] Harbor transaction and I didn't give any orders
[12] regarding Lincoln Harbor. Is that clear
[13] enough?
[14] **Q:** No.
[15] **A:** Not clear enough. All right. Let's
[16] try and make it clear, then.
[17] **Q:** Your answer is no?
[18] **MR. SPITZER:** The question, Chris,
[19] is asked and answered. Pose a question if
[20] you want an answer, Chris.
[21] **Q:** Do you recall whether the release of
[22] or the issuance of Judge Preska's decision
[23] caused you or anyone else at Liberty to notify
[24] the New Jersey Board of Public Utilities that
[25] Liberty was constructing a non-common system at

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[1] **Price**
[2] Lincoln Harbor?
[3] **MR. BEGLEITER:** Objection, asked and
[4] answered.
[5] **MR. HOLT:** That question was not
[6] asked and it was not answered.
[7] **MR. BEGLEITER:** You already asked
[8] Mr. Price whether he knows, whether he
[9] ever, whether he knows of any contact with
[10] the New Jersey Cable Commission. He's
[11] already said, he's already given you an
[12] answer and he said no. So what's there
[13] left to ask?
[14] **A:** I affirm that. That's precisely
[15] what I said and I specifically said it regarding
[16] Lincoln Harbor and generally said it about New
[17] Jersey authorities, so I said it in the specific
[18] and I said it in the general. How many times
[19] can I say no?
[20] **Q:** Am I correct to assume as president
[21] of the company you would have been made aware if
[22] Liberty had contacted New Jersey authorities
[23] regarding its operation of non-common systems
[24] following the release of Judge Preska's
[25] decision?

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[1] *Price*
[2] **MR. BEGLEITER:** Asked and answered,
[3] Mr. Holt.
[4] **A:** We did that already, too.
[5] **MR. BEGLEITER:** We went through
[6] this.
[7] **A:** I'm trying to be helpful, but you
[8] got to give me something new other than what I
[9] was asked already and answered affirmatively or
[10] negatively.
[11] **Q:** You're aware Judge Preska's decision
[12] found that Liberty was subject to the authority
[13] of the New York State regulators concerning its
[14] operation of non-common systems, correct?
[15] **MR. BEGLEITER:** Objection. That's a
[16] very loose characterization of the
[17] holdings in that case.
[18] **MR. HOLT:** I'm trying to relate
[19] Mr. Price's earlier testimony where he
[20] indicated it was his understanding that
[21] the decision was that Liberty would be
[22] subject to the franchising requirements of
[23] New York.
[24] **MR. BEGLEITER:** I don't believe --
[25] he didn't say that. He didn't say that,

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[1] *Price*
[2] Mr. Holt, he said something quite
[3] different. And he's already answered this
[4] question. And I think your
[5] characterization of the case is inadequate
[6] for an answer.
[7] **MR. HOLT:** The case will speak for
[8] itself.
[9] **MR. BEGLEITER:** That's exactly
[10] right.
[11] **MR. HOLT:** I want to get Mr. Price's
[12] understanding of the impact of the
[13] decision on Liberty's operations.
[14] **A:** I told you already. I'm not going
[15] to answer it again.
[16] **Q:** Mr. Price, do you have Price Exhibit
[17] A available to you? It was marked during your
[18] testimony on Wednesday, the 8th.
[19] **MR. SPITZER:** Mr. Beckner I think is
[20] looking for it.
[21] **MR. BECKNER:** I think I should note
[22] for the record I have not yet received the
[23] official copy of the Price deposition
[24] transcript, nor do I have, I don't think,
[25] the official copies of the exhibits.

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[1] *Price*
[2] What I have are copies of exhibits
[3] that were my copies at the time of the
[4] deposition. I'm going to look and see if
[5] I have the one that I wrote down as
[6] Exhibit 8 and see if I have written
[7] anything on it. If we're lucky I have it
[8] and I didn't write anything on it. But I
[9] just want to advise you folks.
[10] **MR. BEGLEITER:** I did not, I just
[11] don't have last week's, this week's
[12] because I haven't been in my office this
[13] week. As a matter of fact, my whereabouts
[14] can be confirmed by virtually everybody in
[15] this room except for the court reporter.
[16] I have an alibi.
[17] **MR. BECKNER:** Tell me what Price
[18] Exhibit 8 is.
[19] **MR. HOLT:** A two-page letter from
[20] Mr. Price to Michael Hayden dated June 16,
[21] 1995.
[22] **MR. BECKNER:** I've got my copy of
[23] Price 8. Unfortunately it has my notes on
[24] it and underlinings and so on and I don't
[25] think I want the witness to see it, and

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[1] *Price*
[2] the witness' lawyers probably don't want
[3] to see it.
[4] **MR. SPITZER:** Chris, can I suggest
[5] if it's not a lengthy document do you want
[6] to read the relevant portion?
[7] **MR. HOLT:** I can do that.
[8] **MR. SPITZER:** I don't think we're
[9] going to challenge your representation of
[10] what's in the letter.
[11] **MR. BEGLEITER:** Give me a moment to
[12] look through the Foy deposition. I have a
[13] vague recollection it was also in Foy.
[14] **MR. BECKNER:** I've got the copies of
[15] the official Foy deposition.
[16] **MR. BEGLEITER:** June 16? I have Foy
[17] 31.
[18] **MR. HOLT:** That's a two-page letter
[19] from Mr. Price to Michael Hayden.
[20] **MR. BECKNER:** It may be part of Foy
[21] 31. I'm not sure. That was Howard Barr's
[22] letter. With the attachment.
[23] **MR. BEGLEITER:** I'll see if it's
[24] there.
[25] **MR. BECKNER:** See if it's there.

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[1] *Price*
[2] **MR. HOLT:** Why don't I read you the
[3] relevant section and if there is confusion
[4] we can look for it.
[5] **Q:** Paragraph 2, Mr. Price, you indicate
[6] that Liberty is currently serving 15 buildings
[7] in Manhattan by microwave path which have not
[8] yet been approved by the Commission. You
[9] proceed with a description of having filed
[10] applications for 16 buildings and not commencing
[11] service. The relevant, the section I'm focusing
[12] on is the last two sentences of the paragraph?
[13] **MR. BEGLEITER:** I got it. Let me
[14] show it to Mr. Beckner, okay? It's the
[15] end of Foy 31. If you remember correctly
[16] it's, the problem is there is a page out
[17] of order, really, of the letter
[18] beforehand. If Mr. Beckner says it's
[19] acceptable to him, will you accept it as
[20] being acceptable to you, Mr. Holt?
[21] **MR. HOLT:** I'm focused on just the
[22] front page of the June 16 letter.
[23] **MR. BECKNER:** Chris, this is Bruce
[24] Beckner. Price Exhibit 8 is one of the
[25] attachments to Foy Exhibit 31. And the

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[1] *Price*
[2] question is I think what we would all like
[3] to do is show the witness the version of
[4] his letter that's attached to Foy Exhibit
[5] 31.
[6] **MR. HOLT:** That's fine.
[7] **MR. BECKNER:** And the only thing
[8] we're going to note for the record is the
[9] assembling of the pieces of Foy Exhibit
[10] 31, there is between what appears to be
[11] page 1 and page 2 of Mr. Price's letter is
[12] the concluding page of a document signed
[13] by Richard O'Reilly, which I doubt
[14] Mr. Price had a hand in writing.
[15] **MR. BEGLEITER:** I would ask
[16] Mr. Price not to look at the middle one.
[17] I don't think he's being directed to
[18] that. We'll ask him please not to look at
[19] that. I will fold it over so he will not
[20] be able to look at it.
[21] **A:** Good, I'm clean. Yes, I've got June
[22] 16 in front of me as properly blessed by
[23] counsel.
[24] **MR. BEGLEITER:** We'll deem it Price
[25] 8.

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[1] *Price*
[2] **MR. HOLT:** Okay.
[3] **Q:** Focus your attention on the last two
[4] sentences of, basically it's the second
[5] paragraph that begins "As you know."
[6] **A:** Okay, fine. The unauthorized
[7] service?
[8] **Q:** Yes. If you focus on the last two
[9] sentences. Beginning with "The complete
[10] investigation of this."
[11] **A:** Right, got it.
[12] **Q:** I want to focus you specifically,
[13] "steps have been implemented to assure these
[14] errors will not occur again"?
[15] **A:** That's correct.
[16] **Q:** I'd like you to describe for me what
[17] steps you're referencing in this letter.
[18] **A:** Well, once we got everybody together
[19] who was involved in any aspect of the process,
[20] and tried to understand how this all occurred.
[21] I believe I testified to that earlier. Tried to
[22] get to the bottom of what would have caused
[23] this, be it misunderstandings or lapses of
[24] supervision. And then we asked counsel to make
[25] a thorough investigation or counsel was asked, I

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[1] *Price*
[2] didn't authorize that investigation, but an
[3] investigation was undertaken, and then as a
[4] result there were systems put in place to assure
[5] that this wouldn't happen again, given what we
[6] discovered to be the problems.
[7] **Q:** So as of June 16 those systems
[8] hadn't been put in place?
[9] **A:** We had started to put those in place
[10] by putting a bright light on the operations and
[11] finding out where the flaws were and starting at
[12] least verbally to pull things together and
[13] understand what the problem was so we could then
[14] put procedures in place to deal with them in a
[15] symptomatic way.
[16] **Q:** Did you immediately establish any
[17] tentative procedures to insure the accuracy of
[18] information being submitted to the Commission?
[19] **A:** No, because we didn't have the
[20] information. That's why we needed help from
[21] counsel and a lot more advice than we had been
[22] getting before.
[23] **Q:** So there were no immediate
[24] procedures established to assure the accuracy of
[25] information provided to the Commission?

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[1] *Price*
[2] **MR. BEGLEITER:** Objection. It's
[3] argumentative. I'll ask Mr. Price to
[4] answer the question if he can.
[5] **A:** What we discovered was that the
[6] process and what was required was a lot more
[7] complex than we realized, and that was one of
[8] the reasons for the foul-ups that had occurred,
[9] and the procedure that we were going to put into
[10] effect better damn well be bulletproof and
[11] couldn't be done horseback by a few managers
[12] sitting around a table, required a lot of good
[13] advice, required some expert advice from how the
[14] FCC operates, how these licenses are processed,
[15] should be processed, who should audit the
[16] process internally, who should be a compliance
[17] officer. You don't do that in a couple of days
[18] sitting around a table.
[19] **Q:** I understand that, but what I'm
[20] asking you is what you did immediately to insure
[21] that during the process of investigating the
[22] situation that the information that was supplied
[23] to the Commission would be correct and accurate?
[24] **A:** Everything in my power is the
[25] answer. And I've evidence -

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[1] *Price*
[2] **Q:** What specific procedures?
[3] **A:** I told you and I'll tell you again,
[4] and I don't want to get boring. There were no
[5] specific procedures because we hadn't developed
[6] them because we didn't understand the problem we
[7] were curing, and in order to put procedures in
[8] you got to know what the right way to do it is
[9] and what's wrong before you have a procedure.
[10] And to put a procedure in just to blow smoke to
[11] impress public officials is a dumb way to do
[12] business and a dumb way to deal with public
[13] responsibility. Can I say that any clearer?
[14] **Q:** Well, what was your expectation on
[15] or about June 16 as to when the procedures would
[16] be put in place?
[17] **A:** As soon as possible, sir.
[18] **Q:** Did you have any understanding as to
[19] how long it would take to complete the
[20] investigation?
[21] **A:** Didn't know what the problems were,
[22] didn't know how deep they were, didn't know how
[23] many people were involved in the foul-up, and
[24] without that it would have been dumb to start a
[25] procedure.

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[1] *Price*
[2] Can we not ask the same thing over
[3] again? If you're trying to pillory me for
[4] misconduct you're not getting there. I did the
[5] best I could under the circumstances and asked
[6] for a lot of help to fix a problem.
[7] **Q:** I'm not asking you what you did to
[8] fix that problem immediately. My understanding
[9] of your testimony is to mean that you didn't
[10] know when the investigation would be completed.
[11] I'm asking you what you did in order to assure
[12] that information supplied to the Commission
[13] would be correct during the pendency of that
[14] investigation.
[15] **A:** You're getting tiresome, Chris. I
[16] answered that already and I'm not going to
[17] answer it again. You're just papering the
[18] record for your own benefit. Certainly not for
[19] mine.
[20] **MR. HOLT:** Move to strike that
[21] answer as non-responsive.
[22] **Q:** Turn to page 2 of the letter.
[23] **A:** Yes.
[24] **Q:** Second paragraph.
[25] **A:** Yes.

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[1] *Price*
[2] **Q:** You make reference on a number of
[3] occasions to the need to provide, for Liberty to
[4] provide service to subscribers. Can you explain
[5] to me what you meant by your reference to
[6] subscribers?
[7] **A:** Yes, the customer who pays for
[8] service.
[9] **Q:** And you consider them to be Liberty
[10] subscribers, correct?
[11] **MR. BEGLEITER:** Objection.
[12] **MR. HOLT:** Can the witness answer
[13] the question?
[14] **MR. BEGLEITER:** Hold it.
[15] Are you asking for a legal opinion?
[16] **MR. HOLT:** I'm asking the witness'
[17] understanding what he meant by the use of
[18] the term "subscribers" when he wrote this
[19] letter.
[20] **A:** What I meant, and I'll do the best I
[21] can by subscribers, is what the FCC defines as a
[22] cable subscriber. And we had a good clear idea
[23] from the FCC of what that meant and what it
[24] didn't mean, and that's what we meant by
[25] subscriber. We meant what the FCC defines as a

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(1) *Price*
(2) subscriber.
(3) Q: And what is that?
(4) MR. BEGLEITER: He doesn't have a
(5) book in front of him.
(6) A: The regulations are replete with
(7) references to subscribers, and whatever the FCC
(8) defines as a subscriber that's what we defined
(9) as a subscriber. I'm not intimate with all the
(10) rules and regulations and probably the 500 times
(11) the word subscribers is mentioned in FCC
(12) regulations. Whatever they said it is and
(13) whatever they said it was, that's how we dealt
(14) with the word "subscribers."
(15) Q: I'm asking you what your
(16) understanding was at the time you wrote this
(17) letter as to what the term "subscriber" meant.
(18) I'm not asking you to refer to the FCC
(19) regulations. What was your understanding?
(20) A: An individual subscriber.
(21) Q: I'm asking you whether it was your
(22) belief that those were subscribers of Liberty?
(23) A: Well, they weren't Time Warner
(24) subscribers.
(25) Q: So your answer is yes?

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(1) *Price*
(2) A: Yes, Liberty subscribers, an
(3) individual cable subscriber, Liberty.
(4) Q: I would like to turn your attention
(5) now to what was marked during your deposition on
(6) Wednesday as Price Exhibit 2.
(7) MR. BEGLEITER: What is that,
(8) Mr. Holt?
(9) MR. HOLT: It was a memorandum from
(10) Mr. Price to -
(11) MR. SPITZER: We all have it
(12) memorized by now, Chris. We've spent
(13) hours on it.
(14) MR. BEGLEITER: I don't have a spare
(15) copy. We have a copy, but I don't have a
(16) spare copy. I don't believe that was
(17) introduced at any other deposition and I
(18) don't have the Price Exhibit here.
(19) MR. SPITZER: It's been used at a
(20) number of depositions but it was always
(21) used at Price 2.
(22) MR. HOLT: Mr. Beckner, do you
(23) happen to have a copy of that?
(24) MR. BECKNER: The copy I have is
(25) very dirty. It was the working copy I

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(1) *Price*
(2) used for deposing Mr. Price or somebody
(3) and it's got notes and things all over it.
(4) MR. BEGLEITER: It's only a few
(5) pages long. Would you like to fax it
(6) here?
(7) MR. SPITZER: What are the
(8) questions? Maybe you can read the
(9) relevant portion.
(10) MR. HOLT: That might work.
(11) Q: Let me begin by asking you a general
(12) question, which is do you have any knowledge or
(13) understanding as to whether the law firm of
(14) Pepper & Corazzini assigned a client code to
(15) Liberty matters?
(16) A: I have no clue.
(17) Q: So during the course of your review
(18) of bills from Pepper & Corazzini, which I
(19) believe you testified you had done earlier -
(20) A: No, stop, I didn't say I reviewed
(21) the bills. I said I saw bills. It wasn't my
(22) job to review bills.
(23) Q: Well, I take it your testimony is
(24) that when you saw bills from Pepper & Corazzini
(25) you didn't note any client account code?

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(1) *Price*
(2) A: That's correct.
(3) Q: Well, I'm going to refer you to
(4) various portions of the document, and,
(5) Mr. Beckner, do you have Price Exhibit 3 with
(6) you, which was -
(7) MR. BECKNER: Yeah, I have Price
(8) Exhibit 3. Let me just sanitize it a
(9) little bit. I'm showing Liberty's
(10) counsel, I've marked a couple of notes in
(11) blue ink. What I'm going to do is strike
(12) through them, and then the other thing
(13) that I'll note for the record is that I
(14) have in blue ink drawn some arrows by some
(15) dates and circled some blanks. And then
(16) I've also made some notes in black ink,
(17) which I don't think will be intelligible
(18) to anyone, probably not even to me in a
(19) few days. Let me just show this to the
(20) witness.
(21) MR. BEGLEITER: I have no problem
(22) with that.
(23) THE WITNESS: Fine by me.
(24) MR. BECKNER: I'm going to show the
(25) witness my copy of Price Exhibit 3 and

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(1) **Price**
(2) we've agreed that my blue ink markings are
(3) not part of the exhibit.
(4) **MR. BEGLEITER:** Just to assure there
(5) is not a page missing or a page there,
(6) I'll read the Bates numbers. 015704
(7) through 015712.
(8) **MR. HOLT:** That's what I have.
(9) **MR. BEGLEITER:** Fine. It looks like
(10) we have a copy of the document that's in
(11) front of you, Mr. Holt. Although this one
(12) has illuminations.
(13) **Q:** Now your memo, which is Price
(14) Exhibit 2, refers to terms attached to the
(15) memo. Is it your understanding that the
(16) document marked as Price Exhibit 3 was the
(17) material attached to your memo?
(18) **MR. BEGLEITER:** I'll make a note
(19) that was asked and answered by the witness
(20) on Tuesday.
(21) **A:** Yes, I believe you were absent
(22) during the time I answered that.
(23) **Q:** This is a foundational question.
(24) I'm asking you is it your recollection that the
(25) material, the document marked as Price Exhibit

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(1) **Price**
(2) 3, was attached to Price Exhibit 2?
(3) **A:** As I recall when these were shown to
(4) me in sequence, which they aren't being today,
(5) but they were when you were not there, that was
(6) the answer I gave.
(7) **Q:** That was my understanding as well.
(8) And the confusion I have is that the memo that
(9) you prepared refers to a citation to relevant
(10) dates in the chain, and I'll quote to you from
(11) the paragraph. My data is simplified for
(12) management purposes, so I do not cite every
(13) relevant date in the chain, but merely note key
(14) dates such as when our applications mature after
(15) notice periods run.
(16) I want to refer you to Price Exhibit
(17) 3, and ask you what dates in Price Exhibit 3
(18) identify when Liberty's applications mature
(19) after notice periods have run?
(20) **MR. BEGLEITER:** I'm going to object
(21) to the question. Form, foundation.
(22) Can you answer the question?
(23) **A:** No, I can't answer it because I
(24) don't have the memo in front of me and I can't
(25) read it and connect it with what you're talking

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(1) **Price**
(2) about.
(3) **MR. HOLT:** Mr. Beckner, is your memo
(4) so far marked up that it can't be shown to
(5) the witness?
(6) **MR. BECKNER:** What I've done for the
(7) record is I've folded up the memo so the
(8) only part that's visible is the complete
(9) paragraph that you read. And the rest of
(10) the comments that I put on this particular
(11) copy are not visible to the witness, so if
(12) counsel would permit that I could show the
(13) witness the paragraph you read.
(14) **MR. BEGLEITER:** I have not committed
(15) this document to memory. I assume,
(16) Mr. Beckner, you don't want me to look at
(17) the whole document?
(18) **MR. BECKNER:** No, I don't.
(19) **MR. BEGLEITER:** I assumed correctly,
(20) then.
(21) **MR. BECKNER:** I will show it to you
(22) at the distance of ten feet.
(23) **MR. BEGLEITER:** My problem with
(24) this, it's a fairly short document, I
(25) don't know whether there are other parts

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(1) **Price**
(2) of that document that will be helpful in
(3) the witness remembering or recalling what
(4) this is about.
(5) **MR. BEGLEITER:** Can it be faxed up
(6) here?
(7) **A:** If you're getting into this kind of
(8) detail, and it's sentences as part of an
(9) important piece of paper, which I gather this is
(10) if it's used so much, I really have to see those
(11) remarks in context, to give you a correct
(12) answer. I'm not trying to be difficult, I just
(13) want to make sure what I tell you is truthful.
(14) **MR. SPITZER:** What is your ultimate
(15) question?
(16) **Q:** Maybe I can rephrase it. Looking at
(17) Price Exhibit 3, do you have that document
(18) before you?
(19) **A:** I got it.
(20) **Q:** Could you please take a moment to
(21) look through the document and tell me, you see
(22) there are various columns established?
(23) **A:** Yes.
(24) **Q:** Contract date, path coordination
(25) date, license application date, and those

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[1] *Price*
[2] columns are consistent throughout this document,
[3] correct?
[4] A: I'm just looking to make sure that's
[5] correct. Yes, they are.
[6] MR. BEGLEITER: Do the whole thing.
[7] MR. SPITZER: I don't think they
[8] are. There are so many pages redacted
[9] it's impossible to know. And they
[10] change.
[11] A: They change in size, in format.
[12] MR. SPITZER: The pages are
[13] redacted.
[14] A: No, they are completely different.
[15] I'm sorry. It's not so.
[16] Q: I'm not asking you for the format,
[17] I'm asking you for the content in terms of the
[18] column. I believe they redacted, the document
[19] they are referring to is the D list that does
[20] begin with a set of columns, with FCC 115738,
[21] which is the Bates stamp number?
[22] A: In general they are the same, yes.
[23] Q: In terms of substance the columns
[24] are all the same?
[25] A: Just hold it a second.

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[1] *Price*
[2] MR. BECKNER: Hold your question
[3] here. There is an interruption from his
[4] secretary.
[5] (Pause in the proceedings.)
[6] A: Sorry for the interruption.
[7] MR. BECKNER: I think there was a
[8] question pending. I think the reporter
[9] probably got your question. Do you want
[10] to reask it or read it back?
[11] MR. HOLT: I can reask it.
[12] Q: Mr. Price, in terms of substance I
[13] take it that you agree with me that the columns
[14] that are marked in each of the lists, A through
[15] D, are the same?
[16] A: Yes, the headings are the same. The
[17] format varies.
[18] Q: The headings are contract date
[19] first - well, it's building unit, contract
[20] date, path coordination date, license
[21] application date, STA application date. Did I
[22] miss anything?
[23] A: No, you didn't.
[24] Q: Can you tell me, would you agree
[25] with me that nothing in this document

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[1] *Price*
[2] constitutes a column that identifies dates for
[3] when applications mature after notice periods
[4] have run?
[5] A: I don't even know what that means,
[6] but no, nothing says that on this form.
[7] Q: Does that lead you to believe that
[8] this form was not the document that was attached
[9] to the memo that's been marked as Price Exhibit
[10] 2?
[11] A: I don't have a clue because I don't
[12] have the memo.
[13] MR. BEGLEITER: Objection.
[14] Q: Do you ordinarily retain memoranda
[15] that you create in a file after the memoranda
[16] has been distributed?
[17] A: No, I don't. Maybe my secretary
[18] does, but I'm not sure of that.
[19] Q: Do you have any knowledge or
[20] understanding as to whether your secretary's
[21] files were searched in conjunction with this
[22] proceeding to determine whether or not a copy of
[23] this memoranda is in her files?
[24] A: This memoranda, no, I was asked to
[25] be helpful and open my files to find relevant

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[1] *Price*
[2] information for this proceeding. I was not
[3] specifically asked to search my files for this
[4] document.
[5] Q: When you say your files, you mean
[6] your personal files?
[7] A: Whatever files exist in my office or
[8] my assistant's office, whatever files there are
[9] that I have. You asked about correspondence
[10] files. Those I don't keep. I have plenty of
[11] files on my windowsill. You should visit my
[12] office some time.
[13] REQ MR. HOLT: I would ask counsel to
[14] conduct a review of Mr. Price's files to
[15] determine whether there's a copy of this
[16] memoranda that contains a chart different
[17] from the one marked as Price Exhibit 3.
[18] MR. SPITZER: Mr. Holt, all relevant
[19] documents have been produced. If you want
[20] to raise an issue, go ahead, raise an
[21] issue with somebody. We're not conducting
[22] a search.
[23] MR. HOLT: I think that is a matter
[24] that we'll be taking up with the Judge.
[25] A: Is there something that you're

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(1) *Price*
(2) missing that I can help you with? I'm trying to
(3) help you. What are you looking for? Maybe I'll
(4) run down the hall and get it.
(5) **Q:** You're fantastic. What I'm looking
(6) for is information as to whether or not there
(7) was a different chart or other information
(8) attached to the memoranda that's been marked as
(9) Price Exhibit 2.
(10) **MR. BEGLEITER:** Which we don't
(11) have.
(12) **A:** To the best of my knowledge, no, but
(13) I don't have anything, so I can't guarantee you
(14) that conclusion because I don't have the stuff
(15) in front of me to do it.
(16) **Q:** I take it, though, that your offer
(17) is that you will look through your file to
(18) determine whether a copy of the memoranda exists
(19) that contains an attachment other than what's
(20) been marked as Price Exhibit 3?
(21) **MR. SPITZER:** It's been done,
(22) Mr. Holt.
(23) **A:** Let me repeat. I went at the
(24) request of counsel I opened my files and people
(25) went through them like moles. So for me or

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(1) *Price*
(2) anyone else to do that again is a waste of
(3) time.
(4) **Q:** You maintain your files in a
(5) chronological order?
(6) **A:** I don't. My files in my office are
(7) a mess and the answer is no, the files that my
(8) secretary keeps, I have no clue what her filing
(9) system is. I hope it's better than my wife's.
(10) **MR. BECKNER:** Chris, I've been busy
(11) coloring with a black pen over my notes on
(12) my copy of Price Exhibit 2. There are
(13) still underlines and question marks and
(14) circles on the document. I don't have any
(15) objection to showing this censored version
(16) of my copy to either Mr. Price or his
(17) attorneys if you want me to do that.
(18) **MR. HOLT:** Yes, I would, please.
(19) **MR. BEGLEITER:** I will take a look
(20) at it first.
(21) **MR. BECKNER:** You may.
(22) (Handing.)
(23) **MR. BEGLEITER:** (Perusing.) It
(24) contains Bates number 015702 for the first
(25) page and 015703 for the second page, and I

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(1) *Price*
(2) hope we don't have to go through again the
(3) colloquy that goes along with the fact
(4) that the pages, there's a different
(5) numbering.
(6) **MR. HOLT:** No.
(7) **MR. BEGLEITER:** We've done that a
(8) number of times already. I will show it
(9) to the witness and the witness will look
(10) at it and we'll assume that it's Price 2
(11) without the colorings, the circles, the
(12) question marks, the lines, whatever.
(13) **A:** Here I am.
(14) **Q:** Do you have that document before
(15) you?
(16) **A:** Yes, I do.
(17) **Q:** The second paragraph of the
(18) document, the second line?
(19) **A:** Yes.
(20) **Q:** After the word "reports," you
(21) indicate that you extrapolated information. I'm
(22) interested to know what you used, what documents
(23) if any that you reviewed in order to extrapolate
(24) the information that was ultimately attached to
(25) this memorandum.

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(1) *Price*
(2) **MR. BEGLEITER:** That was asked and
(3) answered.
(4) **A:** I believe you weren't there when
(5) this was asked and I answered it fully.
(6) **MR. HOLT:** I'll take counsel's
(7) representation that it was answered fully.
(8) **MR. BEGLEITER:** I think Mr. Beckner
(9) answered the question.
(10) **MR. BECKNER:** Chris, I conducted a
(11) fairly long examination of Mr. Price about
(12) the source of the information that's
(13) reflected in Price Exhibit 3.
(14) **MR. HOLT:** Okay.
(15) **MR. BECKNER:** I can't recall a
(16) specific question, but I'm pretty sure the
(17) subject of your question was in fact
(18) covered by one of mine and by the witness'
(19) answer.
(20) **MR. SPITZER:** And I believe by other
(21) witnesses.
(22) **MR. BECKNER:** Well, that's also
(23) true, there were other witnesses who
(24) testified about.
(25) **MR. SPITZER:** Also in your absence.

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(1) *Price*
(2) Q: Let's move down to the fourth
(3) paragraph.
(4) MR. BEGLEITER: The one that begins
(5) "my data."
(6) MR. HOLT: That begins "let's
(7) start."
(8) A: Let's start.
(9) Q: You indicate that you, I believe I'm
(10) reading correctly, "I occasionally see different
(11) dates for filings in different documents due
(12) perhaps to amendments." I'm curious to know
(13) what you meant by that phrase.
(14) A: I'm going to say that this was
(15) specifically asked and covered at length.
(16) Q: My recollection is that there was a
(17) question asked but that the answer was
(18) non-responsive.
(19) A: That's absolutely incorrect. No one
(20) said it was non-responsive and I went into great
(21) detail. Took about 45 minutes. You were not
(22) there.
(23) Q: No, I was there. I was there for
(24) your entire deposition.
(25) A: Then why are you asking me again?

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(1) *Price*
(2) Q: Because the question wasn't
(3) answered.
(4) A: Well, I think you better read the
(5) record.
(6) (Pause in the proceedings.)
(7) A: Are you reading it?
(8) Q: I don't have the record in front of
(9) me.
(10) A: I can't help you.
(11) Q: I'm preparing my next question.
(12) Turn to the next page of the
(13) document, the last paragraph.
(14) A: Yes.
(15) Q: You make reference to corrections, a
(16) response Mike Lehmkuhl had made to the draft
(17) with the attached additions and corrections. I
(18) would like to refer you again to Price Exhibit 3
(19) and ask you whether you see any markings on that
(20) document that suggests that corrections or
(21) additions were made?
(22) MR. BEGLEITER: Hang on.
(23) A: I see lots of them in different
(24) handwritings from several different people. I
(25) believe some of them are counsel from various

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(1) *Price*
(2) firms here. But this is not the right document
(3) to ask that question about.
(4) MR. HOLT: A point well taken. I
(5) have a clean version of the document.
(6) Q: Other than those added by -
(7) MR. BEGLEITER: It's hard to tell
(8) because there is handwriting in different
(9) colored ink.
(10) MR. BECKNER: I will state for the
(11) record that unfortunately at different
(12) times I wrote things on this particular
(13) document, in some cases with blue ink
(14) which makes that easy, we know it wasn't
(15) on a copy, but in some cases with black
(16) ink. I think that the writings that I put
(17) were only on the first page, and I can
(18) point out to the witness those marks that
(19) I believe are mine.
(20) MR. SPITZER: Can I state, I'm not
(21) going to become a witness in this thing.
(22) But don't you have an original production
(23) copy there, Chris?
(24) MR. HOLT: I do. I can represent to
(25) you there are no markings on this document

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(1) *Price*
(2) other than those that say "redacted."
(3) MR. SPITZER: So I don't understand
(4) your question, then.
(5) MR. HOLT: My question is does
(6) the - I want to get into what the witness
(7) was referring to at the time that he
(8) referred to attached additions and
(9) corrections, if not appearing on Price
(10) Exhibit 3.
(11) THE WITNESS: Why don't I try to be
(12) helpful here to cut through some of the
(13) law stuff. You will recall, or maybe you
(14) weren't there, but if you were you'd
(15) recall from my prior testimony that I said
(16) the document was put together by input
(17) from various people who are required to
(18) make the document complete in all its
(19) columns and then try to reconcile all
(20) this. And as the data came in, it kept
(21) being added and columns were filled in and
(22) lines were filled in that hadn't been
(23) filled in. Part of that information came
(24) from counsel.
(25) When I say that it was the additions

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Price

- [1]
[2] or corrections, it means that you'll see
[3] to the people getting the document that
[4] we're getting there and getting all the
[5] lines filled in with accurate information,
[6] and you'll see in the copy you have it
[7] still wasn't complete.
[8] **MR. BEGLEITER:** I'll note for the
[9] record there was extensive questioning
[10] about versions of this document, which
[11] were answered on Tuesday. Continue.
[12] **THE WITNESS:** So I hope that was
[13] helpful.
[14] **REQ MR. HOLT:** Well, my concern is that
[15] we don't, I have not seen in the documents
[16] produced the original version of the
[17] document that was attached to this
[18] memorandum, and I get the sense that the
[19] document that's been marked as Price
[20] Exhibit 3 is not the original document.
[21] And I'm asking for the witness to review
[22] his files to determine whether the
[23] original document exists, and if so to
[24] produce it.
[25] **MR. SPITZER:** We've gone over this,

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Price

- [1]
[2] Chris. What's your next question?
[3] **MR. HOLT:** I'm reiterating my
[4] request.
[5] **MR. SPITZER:** What's your next
[6] question?
[7] **MR. HOLT:** I take that as a
[8] refusal.
[9] **THE WITNESS:** No, it's the wrong
[10] question. We already said that we gave
[11] you all the documents and I, to the best
[12] of my ability, have opened my files
[13] completely, and if there is anything
[14] relevant that was in there, including
[15] original or second versions or tenth
[16] versions, I and counsel have produced it.
[17] Furthermore, there is no reason to
[18] hide it. I don't see that there is
[19] anything so secret about this stuff and
[20] I'd have no reason to tuck it away
[21] anyway. Maybe I'm missing something,
[22] maybe there is a smoking gun here, but it
[23] doesn't smoke and there's no gun.
[24] **MR. HOLT:** I will move to strike
[25] that as non-responsive.

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Price

- [1]
[2] **Q:** Mr. Price, to the best of your
[3] recollection did there come a time after the
[4] release of Judge Preska's decision in March of
[5] '95 that Liberty appealed that decision to the
[6] U.S. Court of Appeals for the Second Circuit?
[7] **A:** I believe that's correct.
[8] **Q:** And do you recall the outcome of
[9] that appeal?
[10] **A:** As I recall we didn't win.
[11] **MR. BEGLEITER:** As I recall also,
[12] Chris.
[13] **Q:** And were you informed of that
[14] decision on or about the time that it was
[15] released?
[16] **A:** I believe I was, yes.
[17] **Q:** Did you receive a copy of the
[18] decision, I'll represent to you that it was
[19] decided July 12, 1995. When I say the decision
[20] I mean the decision by the U.S. Court of Appeals
[21] for the Second Circuit.
[22] **A:** I don't believe I did. I'm sure
[23] counsel got one but I don't recall getting one.
[24] **Q:** Do you recall discussing the
[25] substance of the decision with counsel?

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Price

- [1]
[2] **MR. BEGLEITER:** I'll object.
[3] **MR. HOLT:** I'm not asking for him to
[4] provide me with the contents of any
[5] privileged communications.
[6] **MR. BEGLEITER:** You did last time,
[7] so answer if you remember.
[8] **A:** I don't recall having any
[9] communications, conversations with counsel
[10] because the lower court had already reached the
[11] same decision, so I'm sure there wasn't a lot
[12] more to talk about.
[13] **Q:** You were apprised of the fact that
[14] your appeal, Liberty's appeal had been denied?
[15] **A:** That's what I said.
[16] **Q:** What if any impact did the denial of
[17] Liberty's appeal have on Liberty's operation of
[18] non-common systems?
[19] **MR. BEGLEITER:** I'm going to object
[20] to the form of the question.
[21] Answer it if you can.
[22] **A:** I can't answer it. I think we went
[23] through this dialogue before on this subject,
[24] but if you want to make it more specific we can
[25] go through it again.

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Price

- [1]
[2] **Q:** I'm asking you whether or not the
[3] Court of Appeals decision had any impact on the
[4] manner in which Liberty was operating its
[5] non-common systems.
[6] **A:** We were abiding by the law, whatever
[7] we were told to do and whatever orders were in
[8] effect we were abiding by them.
[9] **Q:** So you don't have any specific
[10] recollection of taking steps to modify the
[11] manner in which Liberty was operating non-common
[12] systems as a result of the release of the Court
[13] of Appeals decision?
[14] **A:** No, I don't. We felt we were in
[15] conformity with what we were supposed to be
[16] doing the day before that decision and the day
[17] after we acted the same way.
[18] **Q:** And I take it you have no
[19] recollection or knowledge of Liberty contacting
[20] officials in the State of New Jersey to discuss
[21] its operation of the Lincoln Harbor common
[22] system?
[23] **A:** Chris, you're putting us all to
[24] sleep here. That's about the sixth time you've
[25] asked that same identical question in the last

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Price

- [1]
[2] hour and a half. You have to be more creative.
[3] **Q:** I would appreciate you allowing me
[4] to complete my question. This was not a
[5] question asked earlier. I'll ask it again.
[6] I take it you have no knowledge or
[7] recollection of contacting any officials in the
[8] State of New Jersey to advise them of Liberty's
[9] operation of the Lincoln Harbor system following
[10] the release of the Court of Appeals decision in
[11] July?
[12] **A:** I guess you're trying to provoke me,
[13] so rather than getting provoked I'll just say
[14] no.
[15] **Q:** I'm not trying to provoke you, I'm
[16] simply asking you a question and I would
[17] appreciate you not responding in a hostile
[18] manner.
[19] **MR. BEGLEITER:** He's not getting
[20] hostile.
[21] **A:** The answer "no" was not a hostile
[22] "no." It was just a no. There was no upper
[23] case or exclamation point on it.
[24] **Q:** The tone of your voice and your
[25] suggesting I'm trying to provoke you is

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Price

- [1]
[2] hostile. I'm simply asking you questions. This
[3] will proceed a lot more smooth if you answer it
[4] to the best of your recollection and ability.
[5] **MR. BEGLEITER:** I will for the
[6] record say I do not believe the witness is
[7] being hostile at all. Continue, please.
[8] **A:** No.
[9] **MR. BEGLEITER:** He's answered the
[10] question.
[11] **A:** Sotto voce, no.
[12] **Q:** I would like to have another
[13] document marked, I guess this will be Price
[14] Exhibit D. It will be a document, it's an
[15] application to the Federal Communications
[16] Commission by Liberty Cable Company. On the
[17] second page it bears Mr. Price's signature or
[18] something that appears to be Mr. Price's
[19] signature and it proceeds, it's not, there's no
[20] Bates stamp.
[21] **MR. SPITZER:** Had you given it to
[22] Bruce to bring up here with a number on
[23] it?
[24] **MR. BECKNER:** Sticker No. 5 on it.
[25] **MR. HOLT:** It may. My copy does not

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Price

- [1]
[2] have a sticker on it. I'm sorry. It
[3] bears a, the top right-hand corner there
[4] is a box that says "FCC Use Only."
[5] **MR. SPITZER:** They all say that.
[6] **MR. HOLT:** A written notation that
[7] says 18 appears to be GHC.
[8] **MR. BECKNER:** There's probably a
[9] lot. Let me see if I can help you out.
[10] The signature line has the typed name
[11] Peter O. Price and has what appears to be
[12] a handwritten date of September 18, 1995.
[13] Is that what you have?
[14] **MR. HOLT:** Yes.
[15] **MR. BEGLEITER:** There may be a
[16] number of them with that date.
[17] **MR. SPITZER:** Can you give any other
[18] identification?
[19] **MR. BECKNER:** That is one of only
[20] two FCC applications that you gave me.
[21] The other application appears to have
[22] Mr. Morank's signature on it.
[23] **MR. HOLT:** Other application is
[24] dated.
[25] That's not what I'm referring to.

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(1) *Price*
(2) **MR. BECKNER:** I think everybody is
(3) satisfied that we have the one that you
(4) intend for the witness to be shown. Do
(5) you want me to give it to the court
(6) reporter to mark it?
(7) **MR. HOLT:** Yes, as Price Exhibit D,
(8) please.
(9) (Price Exhibit D, Federal
(10) Communications Commission application, was
(11) marked for identification.)
(12) **Q:** Mr. Price, do you have the document
(13) before you?
(14) **A:** I have it.
(15) **Q:** If you can proceed down there's a
(16) box that has a number in it and a word that says
(17) "Amendment File No." Do you see that?
(18) **A:** No.
(19) **Q:** It's on the first page, top
(20) right-hand corner, there's a typed line that
(21) says "Michael J. Lehmkuhl, Esquire"?
(22) **A:** Yes. I see amendment file number
(23) 713300.
(24) **Q:** Then you proceed further down under
(25) Section II, do you see Section II in the middle

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(1) *Price*
(2) of the page?
(3) **MR. BEGLEITER:** Roman numeral II?
(4) **MR. HOLT:** Right.
(5) **A:** Got it.
(6) **Q:** And there's an address there of 8200
(7) Boulevard East, Stonehenge, correct?
(8) **A:** Correct.
(9) **Q:** Can you proceed to the next page of
(10) this document?
(11) **A:** I'm here.
(12) **Q:** There's a typed name Peter O. Price,
(13) correct?
(14) **A:** That's correct.
(15) **Q:** Do you recognize the signature that
(16) appears below the typed name as being yours?
(17) **A:** It is.
(18) **Q:** And was this application, a date
(19) appears 9/18/95, does that appear to be your
(20) handwriting?
(21) **A:** It does appear to be, yes.
(22) **Q:** Do you recall reviewing this
(23) application before signing it?
(24) **A:** No, I don't recall reviewing the
(25) application before signing it.

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(1) *Price*
(2) **Q:** What steps, if any, did you take to
(3) confirm that the information in the application
(4) was true and accurate?
(5) **A:** It's replete with technical
(6) information I don't understand, and in these
(7) matters I have to rely upon the legal and
(8) technical people who prepare these things. I've
(9) testified before that these licenses are
(10) incomprehensible to me.
(11) **Q:** Can you explain to me what if
(12) anything occasioned the preparation of this
(13) amendment?
(14) **A:** No, I don't recall.
(15) **Q:** Let me refresh your recollection
(16) perhaps.
(17) **MR. SPITZER:** With what?
(18) **A:** Chris, let me point out the document
(19) you're referring to is 20, 30 pages long and is
(20) filled with coordinates and designators and
(21) names of systems and companies and frequency
(22) analysis data and it, for the record, if I took
(23) this home overnight and studied it I would have
(24) no idea in the morning what I read.
(25) **Q:** Let me represent to you this is an

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(1) *Price*
(2) amendment to an application that was filed for a
(3) transmitter location at Stonehenge, New Jersey,
(4) North Bergen, New Jersey, and this amendment
(5) sought authorization for a path to operate a
(6) microwave facility between Stonehenge and
(7) Lincoln Harbor?
(8) **MR. BEGLEITER:** That's your
(9) testimony.
(10) **Q:** Does that refresh your recollection?
(11) **A:** No, it doesn't.
(12) **MR. BEGLEITER:** That's your
(13) testimony.
(14) **A:** No, it doesn't. As I told you when
(15) I saw this document I wouldn't have been able to
(16) decipher what it meant. I would have been
(17) advised to sign it by the technical and legal
(18) people who felt it was properly prepared. I
(19) have no recollection of why it was prepared.
(20) **Q:** Do you recall having any discussions
(21) with anyone concerning the issue of submitting
(22) an amendment to an application to obtain a path
(23) providing service for Lincoln Harbor?
(24) **A:** No.
(25) **Q:** If you can proceed through the

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(1) *Price*
(2) document, eight pages, to guide you, there's a
(3) page, basically a letter on the letterhead of
(4) Pepper & Corazzini?
(5) **MR. SPITZER:** Can you give us how
(6) many pages in there it might be?
(7) **MR. HOLT:** I think the seventh page
(8) in is Pepper & Corazzini.
(9) **A:** Not in mine.
(10) **MR. BECKNER:** This is Bruce
(11) Beckner. I will note for the record the
(12) entire document appears to have been run
(13) through a fax machine which has put page
(14) numbers at the top left. Are you looking
(15) at page 09 top right?
(16) **THE WITNESS:** Thank you.
(17) **MR. HOLT:** It says 08. I'm looking
(18) at 09 now.
(19) **THE WITNESS:** I've got it.
(20) **Q:** Functional System Diagram?
(21) **A:** That's the next page, right.
(22) **Q:** As indicated by the fax identifier.
(23) Are you familiar with the term
(24) Riviera?
(25) **A:** Yes, it's in France.

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(1) *Price*
(2) **Q:** To your knowledge is it a location
(3) where Liberty provides service?
(4) **A:** I don't know. I'm not familiar with
(5) it. It may be, but I'm not, it doesn't strike
(6) me as a name that's familiar to me.
(7) **Q:** Are you familiar with the name Park
(8) Hudson?
(9) **A:** No, I am not.
(10) **Q:** So you have no knowledge or
(11) understanding as to whether that's a location
(12) where Liberty provides service?
(13) **A:** No, I do not. I've never visited
(14) our locations in New Jersey and I wouldn't know
(15) their names or addresses.
(16) **Q:** Who at Liberty would know the names
(17) and addresses of the locations in New York?
(18) **MR. SPITZER:** In New York?
(19) **MR. HOLT:** In New Jersey, I'm
(20) sorry.
(21) **A:** The technical people who installed
(22) and maintained those systems would know those or
(23) perhaps the marketing people who originally made
(24) those contracts and negotiated with these
(25) buildings.

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(1) *Price*
(2) **Q:** So it's your testimony that you
(3) didn't negotiate with any of these buildings?
(4) **A:** That's correct.
(5) **Q:** It is your understanding these are
(6) buildings where Liberty provides service?
(7) **A:** No, I didn't say that. I said I
(8) didn't know the two you mentioned and I have no
(9) recollection of what they are.
(10) **Q:** Do you recall, do you have any
(11) knowledge or understanding as to what the term
(12) "West End" means?
(13) **A:** It's an avenue in Manhattan.
(14) **Q:** Do you have any understanding as to
(15) whether that refers to a location where Liberty
(16) provides service?
(17) **A:** We provide service to I think a
(18) dozen locations on West End Avenue.
(19) **Q:** What about 6050 East, do you have
(20) any understanding as to whether that's a
(21) location where Liberty provides service?
(22) **A:** No, it may be a coordinate. I don't
(23) know. I said I'm not familiar with our
(24) operations in New Jersey and I really mean it,
(25) so it's not that I'm being evasive. I really,

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(1) *Price*
(2) honestly do not know these addresses or these
(3) building names.
(4) **Q:** So I take it you never reviewed
(5) functional system diagrams before signing the
(6) application?
(7) **A:** No, and if I did I wouldn't have
(8) done it for precisely the reasons I explained.
(9) They are coordinates and names I'm not familiar
(10) with. It's a very complex procedure and that's
(11) why technical and legal people are required in
(12) depth, more than we realized.
(13) **Q:** If you will turn to the next page of
(14) the document that bears a fax identifier page 10
(15) and it's titled "Statement of Eligibility and
(16) Use."
(17) **A:** Yes.
(18) **Q:** Do you recall reviewing that
(19) statement before you signed Liberty's
(20) application?
(21) **A:** No, I do not. The application,
(22) again I referred to, is a couple of dozen pages
(23) long and what you're talking about is one page
(24) in the middle of all those coordinates and
(25) numbers. No, I did not.

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Price

- [1]
[2] **Q:** Was it your practice, before signing
[3] applications for submission to the FCC, to
[4] review the application?
[5] **A:** Not in the detail you're talking
[6] about, no. I wouldn't have understood it if I
[7] reviewed them.
[8] **Q:** Is it your testimony that you
[9] wouldn't have understood the statement of
[10] eligibility and use that I'm referring to marked
[11] as Exhibit 3 on this application?
[12] **A:** If I read it I wouldn't have
[13] understood its import because it refers to -
[14] first of all I didn't read it, but if I read it
[15] and it referred to a lot of sections of the FCC
[16] rules that I have never read, it certainly
[17] wouldn't make sense to me because I'm not
[18] familiar with those sections of the FCC rules
[19] here and what they referred to.
[20] I'm trying to be completely candid
[21] here.
[22] **Q:** I appreciate that. If you can turn
[23] to the second page of that Statement of
[24] Eligibility and Use, it bears a fax identifier,
[25] page 11, the last paragraph. Can you take a

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Price

- [1] moment to review that?
[2] **A:** "Although the receive site located
[3] at Lincoln Harbor," that sentence?
[4] **Q:** Correct.
[5] **A:** (Perusing.) Yes, I understand it.
[6] **Q:** You understand it. You have no
[7] recollection of reviewing that information prior
[8] to signing the application?
[9] **A:** No. Not only no recollection, I did
[10] not review it.
[11] **Q:** Do you have a recollection of
[12] discussing the information contained in this
[13] paragraph with anyone prior to the time that the
[14] application was signed by you?
[15] **A:** No. Is there something you're
[16] getting at I can help you with, if we can move
[17] things along, I'd be happy to answer your
[18] question if you can tell me what you're getting
[19] at.
[20] **Q:** You're answering me precisely the
[21] way I expected you to answer.
[22] **A:** Good, I'm pleased.
[23] **Q:** Focusing again on that paragraph.
[24] **MR. SPITZER:** Hold on one second.

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Price

- [1] (Pause in the proceedings.)
[2] **A:** Just as a matter of clarification,
[3] if I say I didn't read these 24 pages of
[4] technical data, the way it works is that counsel
[5] and the technical people say "Here is an
[6] application, we have reviewed it, the
[7] information is accurate, it's ready to sign."
[8] That's why I don't go through them, and if I did
[9] I wouldn't be able to tell whether it was
[10] accurate and what it meant. I don't mindlessly
[11] sign things but I have to make an assumption or
[12] ask the people who are doing it that the
[13] information they are giving me is correct.
[14] **Q:** Mr. Price, did you confer with
[15] counsel a moment ago before providing the answer
[16] you just provided?
[17] **A:** Yes, I consulted with counsel
[18] throughout this proceeding.
[19] **Q:** And immediately giving the answer
[20] you just provided, correct?
[21] **A:** Yes, that's correct.
[22] **Q:** Now as of the date this application
[23] was filed, September 18, 1995 or at least the
[24] date that you signed it, do you have any
[25]

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Price

- [1] recollection as to whether Liberty established
[2] its compliance program so that the information
[3] provided to the Commission was truthful and
[4] accurate?
[5] **A:** I don't recall the exact date the
[6] compliance program was put into effect. I
[7] believe it was August of '95. I have to check.
[8] What is the date of this application?
[9] **Q:** 9/18/95 was the date you signed it.
[10] **A:** Right, I believe there was a
[11] compliance program that was either just put into
[12] effect or being put into effect. I think it was
[13] during the summer that the compliance program
[14] was created, and the date it first, it went into
[15] effect was in that August-September time frame.
[16] Whether this particular application was covered
[17] by that compliance procedure I don't recall.
[18] **Q:** And can you relate to me again the
[19] substance, I shouldn't say again, I never heard
[20] it, the substance of the compliance program?
[21] **MR. SPITZER:** Asked and answered,
[22] Mr. Holt. We spent much time on that.
[23] **Q:** Let's assume that the compliance
[24] program was in place for purposes of this
[25]

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[1] **Price**
[2] application. Can you tell me how that
[3] compliance program would have worked as relating
[4] to this application?
[5] **A:** I think it's the same question, but
[6] in general the compliance program works by the
[7] marketing people coming up with a site to be
[8] served or a contract to be signed, they go to
[9] the compliance officer and request that a path
[10] coordination be done for the particular, or an
[11] engineering study be done for the particular
[12] property.
[13] I believe the compliance officer
[14] requests the engineer to conduct a survey and
[15] determine if there is line of sight and what the
[16] coordinates for that property are, I believe the
[17] engineer provides the compliance officer with
[18] that information. If the compliance officer
[19] feels that it's met the necessary criteria to be
[20] served, I believe that he authorizes the
[21] engineer to proceed with the company, search
[22] company or the person of the company doing that
[23] function and coordinate a path for that site.
[24] When the engineer is finished with
[25] that exercise I believe he submits that

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[1] **Price**
[2] information to counsel, regulatory something in
[3] Washington, and the engineer and the marketing
[4] department, and I believe if the path
[5] coordination comes back and is properly verified
[6] by the compliance officer and the engineer, that
[7] application is made to the Federal
[8] Communications Commission for permission to
[9] serve that site, and if that permission is
[10] thought to be not forthcoming in a reasonable
[11] period of time, a special temporary authority
[12] request is made by the compliance officer. So I
[13] presume that those procedures would have been
[14] followed in this case if we had the compliance
[15] procedure in effect at this time.
[16] **Q:** So the FCC request is made by the
[17] compliance officer?
[18] **A:** Well, I believe it's made by counsel
[19] at the request of the compliance officer after
[20] he has determined that the process has been
[21] properly abided by.
[22] **Q:** I see. And that procedure was put
[23] into place, that procedure has been in place
[24] from the date that the compliance program was
[25] established forward?

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[1] **Price**
[2] **A:** Yes, I believe it has. That was my
[3] instruction.
[4] **Q:** And the compliance officer is
[5] Mr. Berkman?
[6] **A:** That's correct.
[7] **MR. SPITZER:** You deposed, you may
[8] recall, Mr. Holt. You might not.
[9] **MR. BEGLEITER:** Just so it's clear,
[10] Mr. Holt, I just conferred with Mr. Price
[11] as to what time he has to go.
[12] **MR. HOLT:** I understand I still have
[13] a half hour to question Mr. Price,
[14] correct?
[15] **MR. SPITZER:** 26 minutes, Mr. Holt.
[16] **MR. HOLT:** Precisely.
[17] (Pause in the proceedings.)
[18] **MR. BECKNER:** The court reporter has
[19] changed her paper tray and I think we're
[20] ready to proceed again.
[21] **Q:** Mr. Price, did there come a time
[22] when you learned that a petition to deny had
[23] been filed by Cablevision against the
[24] application that you signed on September 18,
[25] 1995?

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[1] **Price**
[2] **A:** Yes, I believe I recall it. There
[3] were so many petitions to deny flying in our
[4] direction from Time Warner and at a point I
[5] remember Cablevision surfaced as well. When
[6] that was, and precisely which property or
[7] properties were involved I don't remember. But
[8] I do remember a point in time Cablevision joined
[9] the proceeding.
[10] **Q:** I believe you testified on Wednesday
[11] it was your practice to review those petitions
[12] as they came in; is that correct?
[13] **A:** Not review them, but I saw them come
[14] in. There were a good number of petitions that
[15] came in and I would look at them, but I'm not
[16] counsel, I didn't review them in detail. But I
[17] was aware of them, certainly. I see copies of
[18] them.
[19] **Q:** And was it your practice, after the
[20] petitions came in, to provide them to anyone
[21] else in the company?
[22] **A:** No. They were provided to me by
[23] counsel generally, and counsel had already seen
[24] them, so it was not my practice to show them to
[25] operating people. For practical reasons they

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[1] **Price**
[2] wouldn't have known what they meant and what was
[3] going on, and that wasn't part of their duties
[4] was to review legal applications or challenges.
[5] **MR. HOLT:** Mr. Beckner, do you have
[6] a copy of a document that bears, a
[7] Gettysburg date stamp of November 6,
[8] entitled "Petition to Deny."
[9] **MR. BECKNER:** Yes, I have that.
[10] **MR. HOLT:** Could I have that marked
[11] as Price Exhibit E.
[12] (Price Exhibit E, Federal
[13] Communications Commission Petition, was
[14] marked for identification.)
[15] **MR. BEGLEITER:** I just told the
[16] witness to look it over carefully, okay?
[17] I'm going to report every time I have a
[18] conference, whenever I say something to
[19] him so there is no problem here.
[20] **Q:** Mr. Price, I'm specifically
[21] interested in Footnote 12 of the petition.
[22] **MR. BEGLEITER:** I would ask the
[23] witness to look through the document. You
[24] haven't asked him whether he recognizes
[25] this particular document, you haven't

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[1] **Price**
[2] asked for any authentication questions, I
[3] just point that out for the record.
[4] **A:** As I said before, I remember at a
[5] time that Cablevision introduced themselves into
[6] the proceeding. I don't remember this
[7] particular document, but I could well have seen
[8] it among all the other documents. So Footnote
[9] 12? Yes.
[10] **MR. BEGLEITER:** Page 5.
[11] **A:** Got it.
[12] **Q:** I will relate to you the substance
[13] of Footnote 12 and you can confirm it. Footnote
[14] 12 identifies or raises a number of questions
[15] regarding the accuracy of some of the
[16] information regarding in the application
[17] concerning the receive sites. I'm wondering
[18] whether you recall taking any action as a result
[19] of receiving this petition with respect to the
[20] allegations contained in Footnote 12?
[21] **A:** No, I do not.
[22] **Q:** You don't recall asking that there
[23] be any investigation made to determine whether
[24] the questions raised in Footnote 12 or -
[25] **MR. BEGLEITER:** He's answered the

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[1] **Price**
[2] question. He says no.
[3] **Q:** Is that your testimony, Mr. Price?
[4] **MR. BEGLEITER:** He's already
[5] answered it.
[6] **A:** Softly, no.
[7] **Q:** Do you recall discussing with anyone
[8] at Liberty or your counsel the questions raised
[9] in Footnote 12?
[10] **A:** No, I do not recall.
[11] **Q:** Mr. Price, when you signed the
[12] application that we marked earlier as Price
[13] Exhibit D, did you understand that the
[14] Commission staff would be relying on the
[15] information contained in that application in
[16] order to issue a determination with regard to
[17] the application?
[18] **A:** I think that's a presumption that
[19] when I sign something for the FCC that I take it
[20] seriously that they are going to review it and
[21] act on it.
[22] **MR. HOLT:** Mr. Beckner, can you mark
[23] as Price Exhibit F a document on the
[24] letterhead of Pepper & Corazzini dated
[25] December 8, 1995.

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[1] **Price**
[2] **MR. BECKNER:** I have that. I'm
[3] going to give a copy of it. It appears to
[4] be an STA request, correct?
[5] **MR. HOLT:** Correct.
[6] **MR. BECKNER:** I'm going to give a
[7] copy to the court reporter to be marked as
[8] a courtesy copy to Mr. Begleiter.
[9] **MR. BEGLEITER:** I will tell the
[10] witness to look it over carefully.
[11] **MR. HOLT:** A seven-page document
[12] that begins with a letter from
[13] Mr. Lehmkuhl on the letterhead of Pepper &
[14] Corazzini and proceeds through a page at
[15] the end that appears to be a FCC
[16] remittance.
[17] (Price Exhibit F, letter dated
[18] December 8, 1995, from Michael Lehmkuhl to
[19] the Federal Communications Commission,
[20] with attachments, was marked for
[21] identification.)
[22] **A:** Yes, I have it.
[23] **Q:** Thank you. If you turn to page 5 of
[24] the exhibit, which is actually marked as page 4.
[25] The statement requesting temporary authority, do